

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD VICTOR SEVILLA,

Plaintiff,

vs.

CV F 01 6164 OWW WMW P

ORDER RE MOTIONS  
(DOCUMENTS 83, 84)

D. ADAMS,, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se. Pending before the court is Plaintiff's motion for leave to file an amended complaint and plaintiff's motion for transfer.

This action was closed on March 21, 2005. Defendants' motion to dismiss for failure plaintiff's failure to exhaust his administrative remedies was granted, and this action was dismissed without prejudice for plaintiff's failure to exhaust. Plaintiff filed a notice of appeal of that decision. On September 12, 2005, an order was entered by the Ninth Circuit Court of Appeals, dismissing plaintiff's appeal for lack of prosecution.

On January 10, 2006, plaintiff filed a motion for leave to amend. On January 26, 2006, that motion was denied. Plaintiff was specifically advised that he may not re-open this case on the ground that he has now exhausted his administrative remedies. Plaintiff must file a new suit. *McKinney v. Carey*, , 311 F.3d 1198 (9<sup>th</sup> Cir. 2002). In denying plaintiff's motion, the District Court construed the motion as a motion for reconsideration under Rule 60, and denied

1 the motion. This case is closed, plaintiff's appeal has been dismissed, and his motion for  
2 reconsideration has been denied. Plaintiff has been denied leave to proceed further in this  
3 action.

4 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for leave to  
5 amend and motion for transfer are denied as moot.  
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10 IT IS SO ORDERED.

11 **Dated: April 7, 2006**  
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**/s/ William M. Wunderlich**  
UNITED STATES MAGISTRATE JUDGE